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February 28, 2013

The Honorable F. Dennis Saylor IV
U.S. District Judge
United States District Court - District of
Massachusetts
1 Courthouse Way, Suite 2300
Boston, MA 02210

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**Re: In Re: New England Compounding Pharmacy, Inc. Products Liability
Litigation – C.A. No.: 13-md-02419-FDS**

Dear Judge Saylor:

As you may be aware, I am serving as the Chapter 11 Trustee of New England Compounding Pharmacy, Inc. (the “Debtor”) in its pending Chapter 11 case before Judge Boroff. In that capacity, I thought it might be helpful if I submitted this letter which is limited solely to addressing certain issues raised in yesterday’s submissions to you with respect to the structure of a Plaintiffs’ Steering Committee (“PSC”), which the submissions assert are relevant to your decision.

I take no position with respect to the structure of the PSC, but I did want to briefly address three issues: (1) whether personal injury cases in which the Debtor is not named as a party defendant can be transferred to this Court, (2) whether there is subject matter jurisdiction pursuant 28 § U.S.C. 1334 with respect to those cases and (3) whether there may prove to be a

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substantial number of cases remaining in state court and litigated in those states outside the purview of a bankruptcy plan which could potentially resolve all those and related cases on a global basis.

Under the Bankruptcy Code, the Bankruptcy Court has a broad jurisdictional grant, which, among other things, extends to matters “related to” a debtor’s case. That jurisdiction has been held to extend to matters which may have a conceivable effect upon the debtor’s estate. In that regard, state court suits in which the Debtor may not be named may well give rise to claims against the Debtor’s estate by non-Debtor defendants who may, in turn, assert indemnification or contribution claims against the Debtor’s estate. Likewise, the claims in those suits are asserted against defendants who may share liability, in whole or in part, for many of the claims asserted against the Debtor’s estate. A “race to the courthouse” in a multitude of forums may well result in a significant diminution of assets that might otherwise be available to satisfy claims of creditors of the Debtor’s estate.

For those reasons, among others, I am presently considering, and may well seek, the transfer to this Court, pursuant to 28 USC 157(b)(5), of all such cases pending in state or federal court (whether or not the Debtor is a party). See *In re: TwinLabs Personal Injury Cases*, No. Civ 9169, 2004 US Dist. WL 435085 (SDNY Mar. 8, 2004) (Rakoff, J.) and *In re: Twin Laboratories, Inc., et al*, 300 B.R. 836, 2003 US Dist. LEXIS 19674 (SDNY 2003) (Rakoff, J.). Such transfer, consolidation and centralization in this Court of all pending cases “related to” the Debtor’s chapter 11 case could be accomplished expeditiously and would appear to promote and facilitate an efficient resolution of those cases and the equitable distribution of any and all funds

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available for the benefit of the numerous creditors with substantial claims arising out of these tragic circumstances, a result which would be consistent with the overarching principal of equitable distribution to similarly situated creditors embodied in the Bankruptcy Code.

Respectfully submitted,

/s/ Paul D. Moore, Chapter 11 Trustee
Paul D. Moore, Chapter 11 Trustee

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on February 28, 2013.

/s/ Michael R. Gottfried
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